

## CONGRESSIONAL RECORD SUMMARY

Tuesday, July 30, 2002

### HOUSE

*The House was not in session today.*

*Pursuant to the provisions of S. Con. Res. 132, the House stands adjourned for the Summer District Work Period until 2:00 p.m. on Wednesday, September 4, 2002.*

### SENATE

#### Measures Introduced:

**S. 2820.** *A bill to increase the priority dollar amount for unsecured claims, and for other purposes; to the Committee on the Judiciary.*

*"... This bill includes a second provision which is designed to restore funds to the bankrupt estate which were unjustly dispersed immediately prior to the bankruptcy. My legislation permits the bankruptcy court to recover excessive employee compensation paid in the 90 days preceding bankruptcy, if it determines that that compensation was out of the ordinary course or unjust enrichment. These funds would be recovered for the benefit of the estate and its creditors..."*

Carnahan

*Pages S 7579, S 7581*

**S. 2823.** *A bill to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam; to the Committee on Energy and Natural Resources.*

*"...I am pleased to introduce legislation with the senior Senator from Idaho, Mr. Craig, which amends the Organic Act of Guam to clarify Guam's judicial structure by ensuring that it is a unified and co-equal branch of the Government of Guam. The Organic Act establishes the executive and legislative branches of the Government of Guam. This legislation would simply include Guam's judicial branch in the Organic Act..."*

Akaka

*Pages S 7579, S 7582-3*

**S. 2826.** *A bill to improve the national instant criminal background check system, and for other purposes; to the Committee on the Judiciary.*

Schumer

*Pages S 7579, S 7583-5*

#### S. 812. Greater Access to Affordable Pharmaceuticals Act:

*Senate continued consideration of S. 812, to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals, taking action on the following amendments proposed thereto:*

*Pages S 7516-51, D 851*

#### Rejected:

*McConnell Amendment No. 4326 (to Amendment No. 4299), to provide for health care liability reform. (By 57 yeas to 42 nays (Vote No. 197), Senate tabled the amendment.)*

*Pages S 7516-35, D 851*

#### Pending:

*Reid (for Dorgan) Amendment No. 4299, to permit commercial importation of prescription drugs from Canada.*

*Pages S 7516-51, D 851*

#### S. 812. Greater Access to Affordable Pharmaceuticals Act (Cont'd.):

***Graham Amendment No. 4345 (to Amendment No.4299)***, to amend title XVIII of the Social Security Act to provide protection for all Medicare beneficiaries against the cost of prescription drugs.

*Pages S 7535-51, D 851*

A unanimous-consent-time agreement was reached providing for further consideration of the bill at 9:30 a.m., on Wednesday, July 31, 2002; that there be 90 minutes of debate on the motion to waive the Budget Act with respect to ***Graham Amendment No. 4345 (to Amendment No.4299)***, listed above, equally divided between Senator Graham and Senator Grassley; that if the motion to waive fails and the amendment falls, then the underlying Dorgan Amendment be agreed to, and the Senate vote immediately on cloture on the bill; further, that if cloture is invoked, the bill be read a third time and the Senate then vote immediately on final passage of the bill.

*Pages S 7545, D 851*

**H.R. 3009. Andean Trade Promotion and Drug Eradication Act Conference Report:**

By 66 yeas to 33 nays (Vote No. 198), Senate agreed to the motion to proceed to consideration of the conference report on **H.R. 3009**, to extend the Andean Trade Preference Act, and to grant additional trade benefits under that Act, and then began consideration of the conference report.

*Pages S 7551, D 851*

A motion was entered to close further debate on the conference report and, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, a cloture vote will occur on Thursday, August 1, 2002.

*Pages S 7551, D 851*

**Nomination Considered:**

***Senate began consideration of the nomination of D. Brooks Smith, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.***

*Pages S 7551-64, D 851*

*"...Mr. President, the Senate is debating the nomination of D. Brooks Smith to the United States Court of Appeals for the Third Circuit. This, incidentally, is the 13th circuit court nominee to be considered by the Senate since the change in Senate majority and reorganization of the Judiciary Committee fewer than 13 months ago. That is an average of one court of appeals judge a month since the Democratic majority has been in place. That does set a record. We voted and confirmed three judges yesterday, one a circuit court of appeals judge. There are 10 other judicial nominees on the calendar. All have been approved on the Democratic side of the aisle. We have no objection to going forward with votes on them. I commend the Senator from South Dakota, the majority leader, Senator Daschle, who worked very hard to overcome the Republican objections so we can vote on President Bush's nominees to the judiciary. We set a record on the number of courts of appeals nominees who have been given hearings and votes. We have moved forward, including confirming one yesterday, and we will vote on another circuit court nominee tomorrow. That will be 13 in less than 13 months, plus more than 60 other judicial nominees for whom we have held hearings or on whom we have already voted. This seat on the Third Circuit is another example of the different ways in which the Republican majority and Democratic majority have proceeded..." (Leahy, Page S 7559)*

***A unanimous-consent agreement was reached providing for further consideration of the nomination on Wednesday, July 31, 2002; and that following the vote on final passage of S. 812, Greater Access to Affordable Pharmaceuticals Act, a vote will occur on confirmation of the nomination.***

*Pages S 7545, D 851*

**Committee Meetings:**

**Committee on Commerce, Science, and Transportation:** Committee held hearings to examine recent

financial troubles in the telecommunications marketplace, including the events that led up to WorldCom's recent filing under Chapter 11 of the Bankruptcy Code, and focusing on maintaining the operations of essential communications facilities.

Page D 852

**Committee on Governmental Affairs:** Permanent Subcommittee on Investigations resumed hearings to examine the role of financial institutions in the collapse of Enron Corporation, focusing on Merrill Lynch's knowledge and involvement and Department of Justice's investigation.

**Committee on the Judiciary:** Subcommittee on Crime and Drugs held hearings to examine criminal and civil enforcement of federal environmental laws, focusing on partnership initiatives of U.S. Attorney's Offices, Federal Bureau of Investigation, and other federal state and local agencies, and compliance programs.

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**Committee Meetings For Wednesday, July 31, 2002:**

**Select Committee on Intelligence:** @ 2:30 p.m. To hold hearings to examine S. 2586, to exclude United States persons from the definition of "foreign power" under the Foreign Intelligence Surveillance Act of 1978 relating to international terrorism, and S. 2659, *to amend the Foreign Intelligence Surveillance Act of 1978 to modify the standard of proof for issuance of orders regarding non-United States persons from probable cause to reasonable suspicion.* SDG-50.

**Committee on the Judiciary:** @ 9:45 a.m. *Business meeting to consider pending calendar business.* SD-226.

**Committee on the Judiciary:** @ 10:00 a.m. *Full Committee, to hold hearings to examine class action litigation issues.* SD-226.

**Committee on the Judiciary:** @ 1:30 p.m. Full Committee, to hold hearings on S. 2619, to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendations, and funding to protect individuals from prison rape. SD-226.

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**Remarks:**

**Creation Of A New Department Of Homeland Security.**

*"... This proposed merger constitutes the largest--the largest--Government restructuring in our Nation's history--bringing together pieces of 22 agencies, involving as many as 170,000 or more Federal employees from perhaps over 100 bureaus and branches. A governmental reorganization of this size involves more than just reorganizing the Federal Government on a flow chart. It means physically moving the bureaus and agencies to a new Department, transplanting tens of thousands of people, desks, computers and phones, hooking them together and making them work again. It also means changing the culture, power structures, and internal dynamics of the relevant agencies and bureaus. It means dealing with confusion, bureaucratic conflict, and unclear lines of authority..."*

Byrd

Pages S 7506-9

**Remarks (Cont'd.):**

**Greater Access To Pharmaceuticals Act.**

*"... As I stated earlier, I am somewhat sympathetic to the concerns of generic drug firms that any*

*exclusivity awarded should be measured from the time of an **appellate court decision**. But this principle may not hold up if any form of rolling exclusivity is adopted or if we have multiple patents and multiple challengers, some of whom are attacking on invalidity and some of whom are attacking on non-infringement.[ ] The HELP Committee Substitute creates a new **private right of action** to attack the listing of patents with FDA, while the FTC report makes no such recommendation..."*

Hatch

*Pages S 7565-71*

**Judicial Nominations.**

*"... I want to correct the record on a few things. No. 1, with regard to balance, there is a lack of balance in many circuit courts of appeals today one way or the other. In the Ninth Circuit Court of Appeals, 17 of the 23 judges are Democrats; 14 were appointed by none other than President William Jefferson Clinton. In the Second Circuit Court of Appeals, the majority of them are Democrats. These are two very important circuit courts. In the Circuit Court of Appeals for the District of Columbia, it could very easily have been that way. It comes down to whoever is President. That is one of the things we do when we choose a President: We choose the person who is going to pick the judges for the next 4 years. And I believe, unless you have a legitimate reason--and it has to be a very legitimate reason for opposing those judges--you need to vote for them..."*

Hatch

*Pages S 7613-14*

**Next SENATE MEETING: Wednesday, 9:30 a.m., July 31, 2002.**

**Next HOUSE MEETING: Wednesday, 2:00 p.m, September 4, 2002.**

**OLA: S. Schwarz, A. Santos**